



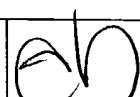
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/091,379	03/04/2002	Brian A. Jones	40021.008	9971
27966	7590	04/01/2004	EXAMINER	
KENNETH E. HORTON KIRTON & MCCONKLE 60 EAST SOUTH TEMPLE SUITE 1800 SALT LAKE CITY, UT 84111			ROBERTSON, JEFFREY	
			ART UNIT	PAPER NUMBER
			1712	

DATE MAILED: 04/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action	Application No. 10/091,379	Applicant(s) JONES ET AL.	
	Examiner Jeffrey B. Robertson	Art Unit 1712	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 22 March 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____.

3. ☒ Applicant's reply has overcome the following rejection(s): See Continuation Sheet.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

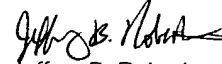
Claim(s) allowed: 1-11, 14-20, 22, 23, 25, 26, 28 and 36-38.

Claim(s) objected to: _____.

Claim(s) rejected: _____.

Claim(s) withdrawn from consideration: 12, 13, 21, 24, 27 and 29-35.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____


Jeffrey B. Robertson
Primary Examiner
Art Unit: 1712

Continuation of 3. Applicant's reply has overcome the following rejection(s): the rejection of claims 1-11, 16-20, 22, 23, 25, and 36-38 over the Ohnaka et al. reference (U.S. Patent No. 5,194,333) has been overcome. Since the present claims do not require that the organosilane polymer is bonded to the metal oxide surface via a siloxane linkage, the examiner is not persuaded by applicant's argument that this distinguishes the instant claims from Ohnaka. However, upon re-examining the Ohnaka reference, the examiner is persuaded that the attachment of the organosilane polymer to the functionalized silica surface does not necessarily contain three attachment points to a single organosilane polymer chain. It cannot be definitively stated that a single organosilane polymer is bound to the surface through three attachment points versus multiple polymer chains bound through a single attachment point from the disclosure in Ohnaka. Therefore, the inherency rejection must be withdrawn since the characteristics claimed do not necessarily result from the prior art teachings.

Continuation of 5. does NOT place the application in condition for allowance because: claims 12, 13, and 29-35 remain in the application. They are indicated as withdrawn, but have not been cancelled. For claims 21, 24, and 27, would be subject to rejoinder if the text of the claim were re-presented as "previously presented" claims.